

## **November 29, 2007 Minutes of Bigfork Land Use Advisory Committee**

Committee members present: Darrel Coverdell, Mary Jo Naïve, Shelley Gonzales, Paul Guerrant, Phil Hanson, John Bourquin, Gary Ridderhoff. There were 15 members of the public present.

Chairman Bourquin called the meeting to order at 4:00 PM, and called for adoption of the agenda. Agenda was approved. M/S Guerrant/Ridderhoff.

Minutes of the October 25, 2007 meeting were approved with corrections. M/S Gonzales/Coverdell.

### **ADMINISTRATOR'S REPORT:**

**A. Sign Violations:** Secretary Hanson read an email from George Smith stating, "the legal department is working with us to develop a set of inspection and response criteria that we can implement county-wide. We are being very careful with the signage issue right now as we attempt to resolve some major billboard issues, and make sure that we are successful. We're not ignoring the issues related to the specific complaints, we are just trying to assure that we ALL handle sign violation in a systematic and equal manner in the future. The short answer is that there has been no direct action, but it's pending on all the noted violators, and a few more in the area as well."

**B. Application Status:** The Planning Board, on November 14, 2007, approved the applications for Saddlehorn and Murer. There was some discussion regarding road widths for Saddlehorn, but the Planning Board did not reinforce their position on the wider roads in their action. Attending from BLUAC were John Bourquin, Gary Ridderhoff, Phil Hanson and Sue Hanson.

The Planning Board, on November 28, 2007, recommended denial for the Touris application. The vote was not unanimous. Some board members felt that this location was more appropriate than the designated I-1 zoning at the intersection of Hwy 83 and Echo Lake Road. The majority of members voting to recommend denial considered the park in close proximity and what could occur with future use in an I-1 zone. B J Grieve offered a definition of "spot zoning". It is paraphrased:

1. If it benefits a single parcel of land only.
2. Is significantly different from surround zoning
3. Is small from the perspective of other areas zoned the same.
4. Would benefit one or two at the expense of the majority.

The secretary has asked Grieve to provide BLUAC with the full text. Sue Hanson also requested that the Planning Board provide an explanation, in the future, of any decision to disregard recommendations from BLUAC, noting this would provide a better understanding of their position for BLUAC.

The Helena Flats Advisory Board presented their updated growth plan for approval of the Planning Board for addending to the Flathead County Growth Plan. There were no changes to their growth plan because it was very recently adopted and did not need significant updating. Of note, the Helena Flats Advisory Board sends their growth plan to purchasers of large properties in their district as well as brochures of their "vision" of their neighborhood plan.

The Commission will post 30 pubic notice for the Murer zone change on December 4.

**C. BLUAC Elections & filing:** The term for John Bourquin and Phil Hanson will expire June 1, 2008. Those interested in being elected to BLUAC must file a Petition of Nomination, Affidavit and Oath of Candidacy. Start of filing is December 23, 2007. Close of filing is February 21, 2007. Secretary Hanson has filing forms available or they may be picked up at the Flathead County Election Office in Kalispell.

**D. Reminder on Public Comment:** Chairman Bourquin read the following:

Because we are all neighbors, I have tried to run the past meetings with a few more liberties than I should have. I understand you may not be familiar with our policies, and I also understand how one can become excited when involved with an issue personally.

Therefore, to ensure that this meeting is conducted in an orderly, fair, and timely fashion the following rules shall be followed:

- Robert's Rules of order shall be followed which is also a Flathead County recommendation
- Comments from the public will only be heard while the "public comment" period is open
- All public, staff, and applicant comment including questions shall be addressed at all times to BLUAC. BLUAC in turn will involve the appropriate Flathead County staff and/or applicant as needed
- Public comment in favor and opposed to the application will be heard simultaneously
- Public comment shall be limited to a maximum of 5 minutes per person
- Each individual from the public wishing to speak during the open public comment period shall be allowed to speak only once per application
- Once the public comment period is closed, no further comment or questions from the public will be taken by BLUAC unless they are written, involve new information, and submitted to the Chair prior to BLUAC voting on the application

At the conclusion of the application process, if you have additional questions or still have concerns, you are encouraged to voice them when the County Planning & Zoning Board or the County Board of Adjustments hears the application which is usually in 2 to 4 weeks.

#### **APPLICATIONS:**

**A.** A request by Russell Meads on behalf of Fenn Properties, for a Conditional Use Permit to operate a tavern, in an existing establishment, within the Bigfork, B-3 (Community Business) Zoning District. The proposed site is located at 8270 Highway 35.

**STAFF:** Andrew Hagemeyer presented the application on behalf of Eric Giles who is on vacation. Andrew noted the applicant, Russell Meads, operates Sun Mountain Pizza. There is no proposed alteration of the layout of the business. There is adequate parking and the application complies with the Bigfork growth plan. There is no additional lighting required, however, if lighting is to be used it is to be within county regulations outlined in the conditions. He noted that the Sheriff's department reported that there are no routine patrols in the area and that there may be delay in response to calls. Conditions included hours of operation to be 11:00 a.m. to 9:00 p.m. Sunday through Thursday, 11:00 a.m. to 11:00 p.m. Friday and Saturday.

**Bourquin:** It appears the deadline for the liquor license is expired. What is the status of that? A. The state is waiting on the County decisions.

**Ridderhoff:** If the applicant fails to meet conditions and changes into a full blown bar, who monitors that? A. The county does not have staff or monitor however, will respond to any complaints.

**Naïve:** If the business sells, does the Conditional Use go with the owner? A. Conditional Use stays with the property.

**APPLICANT:** Russell Meads addressed BLUAC and noted that a number of customers have expressed an interest in being served alcohol. He would also like the county to reconsider the weekly hours and extend those to 11:00 p.m. for summer business. Often people come off the lake and would arrive at my business after 9:00 p.m.

**Gonzales:** I think serving liquor is natural for your business. I am pleased to see that you have not checked “gaming” on your application. A. Meads responded that he had no interest in gaming and would approve of putting a condition on that.

**Coverdell:** I’m concerned about down the line. I would be more comfortable with beer and wine only. A. Meads responded that it would be foolish not to get the full license because of the cost.

#### **PUBLIC COMMENT:**

**Patricia Wagner:** I understood that gaming was always included in a liquor license, how can you exclude that? A. Meads, if the application does not include gaming, it is not included in the license.

**Eric Mulcahy:** It is an option but not a requirement. Whitefish has an ordinance that restricts gaming to a specific area. The Conditional Use stays with the property.

#### **PUBLIC COMMENT CLOSED**

#### **COMMITTEE:**

**Hanson:** I would favor recommending a condition on gaming.

**Naive:** I would think the 11:00 a.m. to 11:00 p.m. hours would be more appropriate, especially for summer.

**Gonzales:** I would rather let the owner have discretion over operating hours.

**Guerrant:** I move to recommend approval of the application with recommendation for a condition of no gambling and a change the condition of Sunday through Friday hours to 11:00 a.m. to 11:00 p.m. Phil Hanson seconded the motion.

**Naive:** I think a beer and wine license would be more appropriate and am concerned about a full license if the business is sold.

Motion was passed unanimously.

The Flathead County Board of Adjustment will hear the application on December 4, 2007, 6:00 PM at the Earl Bennett Building, 1035 First Avenue West, Kalispell.

**B.** A request by Saddlehorn, LLC, for a Conditional Use Permit to operate a gravel pit in the Bigfork, SAG-5 (Suburban Agricultural), Zoning District. The applicant will use a 5.2-acre site and no permanent structures will be erected on the property. The maximum depth will be 12 feet and mining would last approximately 2 weeks. Crushing equipment will be moved in and out only once. The property is located at 150 Saddlehorn Trail.

**STAFF:** Andrew Hagemeier presented the application for George Smith who is on vacation. He indicated the mining would be site specific and short term. The gravel pit area is in Saddlehorn Phase I. The mining will be contained within the subdivision and be used for development of the subdivision. The site will be reclaimed and used for an equestrian center. No materials will be exported off site. The conditions will require dust abatement, light abatement and limited hours of operation Monday through Friday from 7:00 a.m. to 7:00 pm. The applicant has one year to complete the operation and all equipment will be removed on completion. The applicant may not store gasoline products on site, no asphalt and must comply with all state mining regulations.

**APPLICANT:** Doug Averill spoke briefly and stated that mining on site would save 3,300 to 4,000 truck loads on the highways. He introduced Brett Fisher who answered questions regarding the process. He

noted it would take about three days to set up the equipment, approximately two weeks to complete the crushing and about two days to tear down the equipment.

**Guerrant:** What will be the noise level during crushing? A. We are restricted to 70 decibels. What about dust abatement? A. We will conduct dust abatement as needed. We must stay within a 10% opacity reading. The Montana DEQ enforces the process.

**Coverdell:** When will the crushing and hauling take place? A. We would like to do this during winter, but will have everything completed by spring. We would like to do this in January. We have a good buffer due to the topography.

**Bourquin:** To be clear, it will take two weeks to do the crushing and you intend to complete this in January? A. That is our intention. Final reclamation must be completed by September 9, 2008. We plan to have reclamation completed by late spring. We have a bond with the DEQ and they will release the bond when they have determined reclamation is complete.

#### **PUBLIC COMMENT:**

**Craig Wagner:** We will hear this application next week at the Board of Adjustment. I just wanted to say it is a pleasure to receive such a comprehensive and complete application.

#### **PUBLIC COMMENT CLOSED**

**Coverdell:** I move we recommend the application be approved with the staff conditions. Motion seconded by Guerrant.

The committee voted unanimously to recommend approval.

The Flathead County Board of Adjustment will hear the application on December 4, 2007, 6:00 PM at the Earl Bennett Building, 1035 First Avenue West, Kalispell.

**C.** A Zone Change request in the Bigfork Zoning District by Sarah Taylor and Jack and Barbara Spitler, from SAG-10 (Suburban Agricultural/10 acres), to SAG-5 (Suburban Agricultural/5 acres). The property is located at 1314 McCaffery Road and contains 25.54 (Taylor 12.08 and Spitler-13.46) acres.

**STAFF:** Andrew Hagemeyer noted that the Planning and Zoning Office had suggested to Taylor that she enlist other landowners adjacent to join in the application. The change is compatible with the surrounding area, roads are paved and the change complies with the BNP. Traffic or density is not a significant factor.

**Hanson & Naive:** Requested more clarification of zoning in the surrounding area. A. Andrew pointed out the zoning on a larger map.

**Ridderhoff:** How do you propose to draw the lot lines? A. Staff indicated there is no information of future plans. The maximum lots would be 6 under a PUD.

**APPLICANT:** Eric Mulchay, Sands Engineering, stated the Taylor/Bygrens wanted to split the property and build another larger home. Their plans are to keep the smaller dwelling for a guesthouse. Their request is part of estate planning. The Spitler's tract is empty and they have no plans for building.

Ridderhoff: There are five residences in this area? A. None of the homes are part of this application. Jerry Bygren stated that he and Sarah wanted to build a larger home and were doing some estate planning. The Spitlers may consider the same estate planning in the future. We sent letters to all neighbors at the request of the Planning Office. We have received no negative comments.

#### **PUBLIC COMMENT:**

**Curt Wade:** We are neighbors and object to the zone change. We are concerned about setting a precedent for 5-acre parcels. Could you deny me a zone change if I came to you in the future?

Jeff Wade: I am a neighbor and am concerned about density. When we bought this property, we bought because of the privacy of 10-acre parcels. We would like to keep it that way.

## **PUBLIC COMMENT CLOSED**

**Hanson:** Anytime you change, you open the door for future zone changes. It seems like a logical request.

**Gonzales:** Higher density would require more DEQ involvement.

**Naive:** It makes sense for Taylors, but I am concerned about not having clear intentions for the Spitler property.

**Bourquin:** Is there a requirement for zoning size? A. Andrew: We can create non-conforming lots.

**Hanson:** Requested more information on surrounding lots. A. Committee members studied the map. One of the non-conforming lots included the storage units.

**Bourquin:** Why do the Spitlers want to change zoning? A. They were asked to join the Taylor property to make for larger parcels in a zone change. I'm concerned that there are no specific plans for the Spitler property. Why don't you take this back and request just for your parcel?

**Guerrant:** I move to recommend denial of the application. Ridderhoff seconded the motion

**Guerrant:** I recommended denial based on the fact that there are no specific plans for the second parcel. I think we squander public trust when we change for small parcels.

**Ridderhoff:** It looks like we have three people opposed to this zone change.

**Gonzales:** I would approve if the Spitler property were not included.

The motion passed with five in favor, two opposed (Hanson & Coverdell)

The Flathead County Planning Board will hear the application on December 19, 2007, 6:00 PM at the Earl Bennett Building, 1035 First Avenue West, Kalispell.

## **OLD BUSINESS:**

**A. Compression Brakes:** Craig Wagner reported that he had spoken with Rex Boller of Lakeside. The signs in Lakeside and Woods Bay were installed on the authority of Director Lynch of the Montana Department of Transportation. The sign must state "Compression Brake Mufflers". Wagner will follow up on the procedure.

## **NEW BUSINESS:**

**Committee Name Plates:** Chairman Bourquin noted that many in the public do not know all of the committee members and it might be appropriate to have nameplates for the meeting. Naïve suggested the committee members introduce themselves at the beginning of the meeting. The committee generally agreed with both suggestions. Secretary Hanson will print name cards for members.

Chairman Bourquin also talked about scheduling committee members to attend Planning Board, Board of Adjustment and Commissioner sessions that address BLUAC applications. He asked that members think about how they want to approach that. Guerrant stated that he would hope the minutes and comments are sufficient.

Chairman Bourquin polled the committee to assure a quorum for the December 27, 2007 BLUAC meeting. Six of the members will be present covering a quorum.

## **PUBLIC COMMENT:**

None

Meeting was adjourned at 6:15 PM

Sue Hanson  
BLUAC Secretary